

Disciplinary and Other NASD Actions

REPORTED FOR MAY

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of April 2004.

Firm Expelled

Metro Trading, Inc. (CRD #42484, Deerfield Beach, Florida) was censured, fined \$222,743, and expelled from NASD membership. The sanctions were based on findings that the firm engaged in trading ahead of research and failed to mark and annotate affirmative determinations for short sale transactions. The findings also stated that the firm failed to establish, maintain, and enforce a supervisory system and to implement supervisory procedures reasonably designed to achieve compliance with NASD conduct rules relating to trading ahead of research, affirmative determinations for short sale transactions, and the duty of registered representatives to notify firms with whom they have an account of their association with another firm. The findings further stated that the firm's supervisory system failed to provide for the establishment and maintenance of written procedures, the designation of an appropriately registered principal without authority to carry out the supervisory responsibilities for each type of business in which the firm engages, the assignment of each registered person to an appropriately registered representative and/or principal to supervise that person's activities, and the designation of one or more principals to review the firm's supervisory system, procedures, and inspections implemented by the firm. The fine must be paid when or if the firm seeks to resume its NASD membership. (NASD Case #CMS030047)

Firm Expelled, Individual Sanctioned

Castle Securities Corp. (CRD #16077, Freeport, New York) and Michael Thomas Studer (CRD #707394, Registered Principal, Rockville Centre, New York) The firm was expelled from NASD membership and Studer was barred from NASD membership in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm churned the account of a public customer, and that Studer and the firm failed to reasonably supervise trading in the account of a public customer. The findings also stated that the firm induced a public customer to execute margin guarantees that benefited the firm and exposed the customer to significant risk.

This action has been appealed to the Securities and Exchange Commission (SEC) and all sanctions, other than the bar, are not in effect pending consideration of the appeal. (NASD Case #C3A010036)

Firms and Individuals Fined

First Commonwealth Securities Corporation (CRD #20854, New Orleans, Louisiana) and Norbert Alonzo Simmons (CRD #1740163, Registered Principal, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Simmons consented to the described sanctions and to the entry of findings that the firm participated as co-managing underwriter in negotiated municipal bond issues and, acting through Simmons, failed to file Municipal Securities Rulemaking Board (MSRB) Form G-37/38 reporting its underwriting activity. The findings also stated that Simmons failed to keep his application for registration current in that he failed to disclose that he had been the subject of a formal NASD disciplinary action and failed to disclose his association in outside business activities. (NASD Case #C05040015)

Huberman Financial, Inc. (CRD #28760, Dallas, Texas) and Isac Huberman (CRD #251958, Registered Principal, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the firm and Huberman consented to the described sanctions and to the entry of findings that the firm, acting through Huberman, conducted a securities business while it failed to maintain minimum required net capital. (NASD Case #C06040007)

Peregrine Financials & Securities, Inc. (CRD #43992, Chicago, Illinois) and Thomas Eugene Pearson (CRD #1844334, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$251,100, including disgorgement of \$211,022.48 in commissions retained. Pearson was censured and fined \$25,000. Without admitting or denying the allegations, the firm and Pearson consented to the described sanctions and to the entry of findings that the firm, acting through Pearson, charged public customers excessive and unfair commissions for listed options transactions. The findings also stated that the firm failed to adequately and properly supervise the transactions in that they permitted the charging of unfair and excessive commissions. The findings further stated that the firm, acting through Pearson, entered into an agreement with a foreign broker to pay a finder's fee for opening option contracts for listed options transactions and failed to satisfy all of the conditions of NASD Membership and Registration Rule 1060(b). NASD also found that the firm failed to preserve copies of some electronic mail communications for the required three-year period and/or to maintain electronic communications for two years in an accessible place. In addition, NASD found that the firm had no preservation system to store electronic mail communications records in a non-rewritable, non-erasable manner for the required time period as required by SEC Rule 17a-4(f). Furthermore, NASD found that the firm engaged in

activities that required it to be registered as a municipal securities dealer, while it failed to employ any individual who was registered as a municipal securities principal. Moreover, NASD found that the firm permitted registered persons employed by the firm to perform duties as general securities representatives while their registration status with NASD was inactive due to their failure to complete timely the Regulatory Element of NASD's Continuing Education Rule. (NASD Case #C8A040015)

Firm and Individual Suspended

First Montauk Securities Corporation (CRD #13755, Red Bank, New Jersey) and Paul Lieberman (CRD #2187798, Associated Person, Middletown, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$75,000, and suspended from the activity of issuing research reports for three months. The firm was also required to retain an independent consultant to review and make recommendations concerning the adequacy of the firm's current supervisory and operating procedures (written and otherwise), including the adequacy of its supervisory procedures relating to the issuance of research reports. Lieberman was fined \$15,000 and suspended from association with any NASD member in a supervisory capacity for 30 days. Without admitting or denying the allegations, the firm and Lieberman consented to the described sanctions and to the entry of findings that the firm issued a research report on a stock issuer that failed to disclose material facts; failed to disclose important risks; and made exaggerated, unwarranted, and misleading statements. The findings also stated that the research report failed to provide a sound basis for evaluating facts regarding the issuer and failed to disclose the source for the statistical tables, charts, graphs, and illustrations in the report.

NASD also found that the firm failed to disclose in the research report that it owned warrants to purchase stock from the issuer or that the firm had received compensation for investment banking services in the past 12 months or that it expected to receive, or intended to seek, compensation for investment banking services in the next three months. In addition, NASD found that the firm did not have a principal review or initial the research report as evidence of supervisory review before the firm released the report or maintain copies of the research report in a separate file with a record of the names of the persons who prepared the report or approved its use. Furthermore, NASD found that the research report did not have a reasonable basis for the projected revenue; failed to contain an adequate disclosure of the risks associated with, or that might impede achievement of, the price target, including that the price projection was predicated on the issuer implementing a new untried business model; and did not make certain disclosures in a prominent manner. Moreover, NASD found that the firm failed to adopt and implement written supervisory procedures

reasonably designed to ensure compliance with the provisions of NASD Rule 2711 or to ensure that research reports issued by the firm that were prepared by associated persons complied with NASD rules and applicable securities laws and regulations. In addition, NASD found that the firm's written procedures failed to set forth a procedure for the review of research reports prepared by outside consultants and failed to outline steps to be taken to achieve compliance with the review, filing, and approval requirements of NASD Rule 2210 for such reports. The findings also stated that Lieberman failed to supervise adequately the preparation of the research report to prevent violations of NASD Rules 2210 and 2711. NASD also found that Lieberman actively engaged in the management of the firm without registering as a principal with the firm.

The firm's suspension began May 3, 2004, and will conclude at the close of business June 2, 2004. Lieberman's suspension began May 3, 2004, and will conclude at the close of business June 1, 2004. (NASD Case #CAF040026)

See also First Montauk Securities Corporation, NASD Case #C3A040014, under "Firms Fined" below.

Firms Fined

CRT Capital Group LLC (CRD #28830, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$11,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning trade reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through the Automated Confirmation Transaction ServiceSM (ACTSM) last sale reports of transactions in Over-the-Counter (OTC) Equity securities; failed to designate through ACT last sale reports as late; and incorrectly designated as ".SLD" through ACT last sale reports of transactions in OTC Equity securities reported to ACT within 90 seconds of execution. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws, regulations, and NASD rules concerning trade reporting. (NASD Case #CMS040045)

Dupont Securities Group, Inc. (CRD #42305, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning trade reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline in ACT transactions in eligible securities within 20 minutes after

execution that it had an obligation to accept or decline. The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning trade reporting. (NASD Case #CMS040021)

Essex Radez Company (CRD #34649, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it transmitted to the Order Audit Trail SystemSM (OATSSM) reports that contained inaccurate, incomplete, or improperly formatted data in that the reports failed to match to an ACT trade report. The findings also stated that the firm submitted to OATS reports with equity securities traded on the Nasdaq Stock Market, Inc., that were not in the electronic form prescribed by NASD. The findings further stated that the reports were rejected by OATS and notice of such rejection was made available to the firm on the OATS Web site, but the firm failed to correct or replace 98 percent of the reports. (NASD Case #CMS040023)

FFP Securities, Inc. (CRD #16337, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file advertisements and pieces of sales literature with NASD's Advertising Regulation Department. The findings also stated that the firm approved for use, and distributed pieces of, sales literature regarding variable annuities that were misleading, failed to present balanced discussions, and omitted material information regarding dollar-cost averaging. NASD also found that the firm approved for use and distributed sales literature that compared aspects of mutual funds and variable annuities but failed to present a balanced discussion and omitted information about costs, risks, and restrictions when making that comparison. (NASD Case #CAF040023)

First Montauk Securities Corporation (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to promptly amend Forms U4 and U5 for representatives after becoming aware of information that triggered an obligation to amend the forms. The findings stated that the firm failed to comply with NASD Rule 3070 in that the firm failed to timely report arbitration awards and/or settlements. NASD also found that the firm failed to report terminations for cause. In addition, NASD determined that the firm's written supervisory procedures were not reasonably designed to achieve compliance with Form U4 and Form U5 amendments, 3070 disclosure reporting, and the identification of responsible principals. (NASD Case #C3A040014)

See also First Montauk Securities Corporation, NASD Case #CAF040026, under "Firm and Individual Suspended" above.

Fulcrum Global Partners LLC (CRD #104455, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$75,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning the treatment of rumors by firm research analysts, the trading of securities by the firm's employees, and the avoidance of conflicts of interest by the firm's employees. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning the treatment of rumors by firm research analysts, the trading of securities by the firm's employees, and the avoidance of conflicts of interest by the firm's employees. (NASD Case #CMS040046)

Garden State Securities, Inc. (CRD #10083, Wall, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning compliance with the 20 minute Rule, NASD Marketplace Rule 6130(b). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline in ACT transactions in eligible securities within 20 minutes after execution that the firm had an obligation to accept or decline in ACT as the Order Entry Firm. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the 20 minute Rule, NASD Marketplace Rule 6130(b). (NASD Case #CMS040033)

ING Financial Markets LLC (CRD #28872, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning ACT short sale trade reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in NASDAQ National Market® (NNM®) securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also stated that the firm failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities. The findings further stated that the firm failed to report to ACT the correct symbol indicating whether firm

executed transactions in eligible securities in a principal or agency capacity. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning ACT short sale reporting. (NASD Case #CMS040024)

J.J.B. Hilliard, W.L. Lyons, Inc. (CRD #453, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to the applicable securities laws, regulations, and NASD rules concerning OATS within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on NASDAQ that were not in the electronic form prescribed by NASD and were repairable. The findings also stated that the subject reports were rejected by the OATS system and notice of such rejection was made available to the firm on the OATS Web site, but the firm failed to correct or replace the subject reports. The findings further stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws, regulations, and NASD rules concerning OATS. (NASD Case #CMS040041)

J.P. Morgan Securities Inc. (CRD #18718, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in eligible securities. (NASD Case #CMS040044)

Keane Securities Co., Inc. (CRD #8452, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with contingency, private placement offerings, the firm failed to deposit customer funds into a separate bank account established for the beneficial interests of the customers. The findings also stated that the firm failed to time stamp accurately order tickets relating to NNM and Small Cap transactions to reflect either the time of entry or time of execution of the underlying order. (NASD Case #C10040024)

NFP Securities, Inc. (CRD #42046, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file advertisements and pieces of sales literature concerning registered investment companies with NASD's Advertising Regulation Department.

The findings also stated that the firm approved for use, published, and distributed advertisements and sales literature that were misleading because they suggested that individuals purchasing variable annuities would pay no fees when, in fact, they would. NASD also found that the firm approved for use and distribution to public customers and prospects pieces of sales literature that described the benefits of a variable annuity but failed to present a balanced discussion of the product and omitted information regarding costs, risks, and restrictions. In addition, NASD found that the sales literature failed to disclose that certain benefits were available only if the customer paid an extra cost and that there were surrender charges and reductions in benefits if certain withdrawals were made from the product. Furthermore, NASD found that newsletters failed to identify that the product being discussed was a variable annuity. (NASD Case #CAF040024)

Scott & Stringfellow, Inc. (CRD #6255, Richmond, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to pay \$615.43, plus interest in restitution to a public customer. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a public customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. (NASD Case #CMS040022)

Sonic Technologies, LLC (CRD #104249, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning affirmative determination, the bid test rule, ACT reporting, mandatory close-out, and marking of customer tickets. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws, regulations, and NASD rules concerning affirmative determination, the bid test rule, ACT reporting, mandatory close-out, and marking of customer tickets (NASD Case #CMS040043)

Washington Square Securities, Inc. (CRD #2882, Des Moines, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$50,000, and ordered to pay \$48,955.35 in partial restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, acting

through its agents, it effected, or caused to be effected, purchases of large positions of Class B mutual fund shares in the accounts of public customers that were unsuitable because they deprived the customers of the benefit of sales charge breakpoints, which they would have received had they purchased Class A shares, including those acquired through letters of intent or rights of accumulation. The findings also stated that these purchases deprived the customers of lower 12b-1 fees that they would have received had they purchased Class A shares and also exposed the customers to potentially higher contingent deferred sales charges upon liquidation. NASD also found that the firm, acting through its agents, failed to establish, maintain, and enforce a supervisory system reasonably designed to enable the firm and its supervisors to scrutinize Class B share purchases with a view to detecting and preventing unsuitably large Class B share purchases. (NASD Case #C04040015)

Wayne Hummer Investments, LLC. (CRD #875, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report its short interest positions for NNM securities to NASD. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with the applicable securities laws and regulations concerning the timely reporting of short interest positions. (NASD Case #CMS040042)

Wien Securities Corporation (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$30,500, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning limit order display; firm quote; limit order protection; best execution; order execution and routing information; the three-quote rule; short sales; "Chinese Walls"; trade reporting; books and records; locked/crossed markets; and OATS compliance.

Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report through ACT last sale reports of transactions in NNM securities; failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal, riskless principal, or agency capacity; failed to provide written notification disclosing to its customer its correct capacity in the transaction; and failed to show the correct time of entry and execution on brokerage order memoranda. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning limit order display; firm quote; limit order protection; best execution; order execution and routing

information; the three-quote rule; short sales; "Chinese Walls"; trade reporting; books and records; locked/crossed markets; OATS compliance. NASD also found that the firm failed to enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning registration of personnel, front running in CQS securities, and affirmative determination. (NASD Case #CMS040035)

Individuals Barred or Suspended

Gregory Ralph Caputo (CRD #1758741, Registered Principal, North Caldwell, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Caputo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Caputo consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in the account of a public customer on a discretionary basis without obtaining prior written authorization from the customer and acceptance in writing from his member firm of the account as discretionary.

Caputo's suspension began April 19, 2004, and concluded at the close of business April 30, 2004. (NASD Case #C9B040024)

Timothy Mark Carder (CRD #3193024, Registered Principal, Chandler, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Carder reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Carder consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Carder's suspension began April 19, 2004, and will conclude July 18, 2004. (NASD Case #C3A040013)

Christopher Alan Chambers (CRD #4634681, Associated Person, Overland, Kansas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Chambers reassociates with any NASD member firm following the suspension or before requesting relief for any statutory disqualification. Without admitting or denying the allegations, Chambers consented to the described sanctions and to the entry

of findings that he willfully failed to disclose material facts on his Form U4.

Chambers' suspension began April 19, 2004, and will conclude at the close of business October 18, 2004. (NASD Case #C04040012)

Thomas John Chase (CRD #1313012, Registered Principal, Bratenahl, Ohio) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Chase consented to the described sanction and to the entry of findings that, without the knowledge or consent of a public customer, he caused checks totaling \$405,600.83 to be withdrawn from the securities account of a public customer, endorsed the checks, and used the proceeds for his own benefit or for the benefit of someone other than the customer. The findings also stated that Chase, without the knowledge or consent of public customers, faxed forged letters of authorization to his member firm requesting that checks totaling \$261,357.03 be disbursed from the customers' securities accounts at his member firm, deposited the checks into his personal bank account, and used the funds for his own personal benefit or for some purpose other than the benefit of the customer. NASD also found that Chase took possession of a \$6,800 insurance premium refund check issued to a public customer, endorsed the check, and used the proceeds for his own benefit or for the benefit of someone other than the customer. In addition, NASD found that Chase failed to respond to NASD requests for documents and information. (NASD Case #C8B030031)

William David DeLee (CRD #4639794, Associated Person, Hanover, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before DeLee reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, DeLee consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

DeLee's suspension began April 5, 2004, and will conclude at the close of business October 4, 2004. (NASD Case #C9A040005)

Jessy Lilly Dirks (CRD #711347, Registered Principal, New York, New York) and **Sal Nuccio (CRD #860000, Associated Person, Yonkers, New York)** submitted Offers of Settlement in which Dirks was fined \$15,000 and suspended from association with any NASD member in a principal or supervisory capacity for six months. Nuccio was fined \$15,000 and suspended from association with any NASD member in any capacity for 30 days. The fines must be paid before Dirks or Nuccio reassociates with

any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dirks and Nuccio consented to the described sanctions and to the entry of findings that a member firm, acting through Dirks, failed to adopt and implement written supervisory procedures reasonably designed to ensure that the firm and its employees complied with NASD Rule 2711. The findings also stated that Dirks failed to exercise adequately or reasonably her supervisory responsibilities to supervise research analysts and to ensure that their research reports complied with NASD Rules 2210 and 2711. NASD also found that Nuccio wrote research reports distributed to public customers that contained "Strong Buy" or "Buy" recommendations but failed to define what was meant by a "Strong Buy" or "Buy" recommendation and did not disclose any risks that could impede the achievement of those targets. In addition, NASD found that Nuccio wrote research reports that failed to disclose the dependence of an issuer on a limited number of customers, the impact that dependence had on potential earnings, that the firm was a market maker in one of the issuers, and included target price projections for which he failed to have a reasonable basis and omitted material information that made them misleading in light of the company's actual financial condition.

Dirks' suspension will begin May 17, 2004, and will conclude at the close of business November 16, 2004. Nuccio's suspension will begin May 17, 2004, and will conclude at the close of business June 15, 2004. (NASD Case #CAF030063)

Larry Orrin Dubin (CRD #1260073, Registered Representative, Marina Del Rey, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Dubin consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing written or oral notification to, and receiving approval from, his member firm.

Dubin's suspension began April 19, 2004, and concluded at the close of business April 30, 2004. (NASD Case #C02040012)

Dane Stephen Faber (CRD #1020637, Registered Representative, Sausalito, California) was barred from association with any NASD member in any capacity and ordered to pay \$82,220, plus interest, in restitution to public customers. The SEC imposed the sanctions following appeal of an NASD decision. The sanctions were based on findings that Faber engaged in fraudulent misrepresentations and omissions of fact in his recommendations to public customers to purchase shares of a speculative security. The findings also stated that Faber made an unsuitable recommendation to a public customer without a reasonable basis for his recommendation. (NASD Case #CAF010009)

Edward Kenneth Fazekas (CRD #1533218, Registered Representative, Chesterland, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$8,220.78, plus interest, in restitution to a public customer. Without admitting or denying the allegations, Fazekas consented to the described sanctions and to the entry of findings that he converted funds totaling \$59,060 belonging to a public customer to his own use without the customer's knowledge, consent, or authorization. (NASD Case #C04040014)

Jaime Antonio Flechas (CRD #2837750, Registered Representative, Ridgeland, Mississippi) was barred from association with any NASD member in any capacity. The sanction was based on findings that Flechas arranged for the transfer of \$18,500 from the account of a public customer without the consent or authorization of the customer. The findings also stated that Flechas failed to respond to NASD requests for information. (NASD Case #C05030047)

Joseph S. Germano (CRD #4668582, Associated Person, Henderson, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegation, Germano consented to the described sanction and to the entry of findings that he willfully misrepresented a material fact on his Form U4. (NASD Case #C02040010)

Hal Stuart Goldenberg (CRD #501694, Registered Principal, Tinton Falls, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Goldenberg consented to the described sanction and to the entry of findings that he forged, or caused to be forged, the signatures of customers on various account documents, including margin agreements and new account forms. NASD also found that Goldenberg settled a customer complaint for \$5,000 without the knowledge or consent of his member firm. The findings also stated that Goldenberg opened an account on behalf of public customers and effected various transactions in the account without the customers' prior knowledge, authorization, or consent. In addition, NASD found that Goldenberg failed to respond to NASD requests for documents and information. (NASD Case #C9B040016)

James Richard Gonzales (CRD #4235861, Registered Representative, Plano, Texas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Gonzales executed unauthorized transactions in the accounts of public customers and failed to respond to NASD requests for information. (NASD Case #C05030050)

Elizabeth Ann Gowen (CRD #2775793, Registered Principal, Redding, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Gowen consented to the described sanctions and to the entry of findings that she settled verbal customer complaints by making payments totaling \$2,863.24 to the customers. The findings also stated that Gowen failed to inform her firm of the complaints or the corresponding payments.

Gowen's suspension began May 3, 2004, and concluded at the close of business May 14, 2004. **(NASD Case #C01040008)**

Barry George Hartman (CRD #1361232, Registered Principal, Missoula, Montana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,000 and suspended from association with any NASD member in any capacity for 15 days. Without admitting or denying the allegations, Hartman consented to the described sanctions and to the entry of findings that he falsely identified himself as another individual in a conversation with an insurance company regarding a variable annuity policy it had issued to a public customer.

Hartman's suspension began May 3, 2004, and will conclude at the close of business May 17, 2004. **(NASD Case #C3B040009)**

Stevan Barry Haslehurst (CRD #4429340, Registered Representative, Orlando, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Haslehurst consented to the described sanction and to the entry of findings that he received \$3,600 from a public customer to invest in securities for the customer, but failed to follow the customer's instructions and deposited the funds into his own account, thereby converting the funds to his own use and benefit. The findings also stated that Haslehurst failed to respond to NASD requests for information. **(NASD Case #C07040033)**

Byron Groo Hathaway (CRD #4044654, Registered Representative, Oreland, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hathaway consented to the described sanction and to the entry of findings that he created a fictitious letter requested that a co-worker forge the name of a deceased former customer of his member firm on the letter and submitted the letter to his firm in an attempt to obtain reimbursement for tuition-related expenses. **(NASD Case #C9B040018)**

Rodolfo Hernandez (CRD #2818510, Registered Representative, Jackson New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. The fine must be paid before Hernandez reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hernandez consented to the described sanctions and to the entry of findings that he made purchases in the accounts of public customers without their consent or authority.

Hernandez's suspension began April 19, 2004, and will conclude at the close of business January 18, 2005. **(NASD Case #C9B040017)**

Richard Scott Jacobson (CRD #2326286, Registered Principal, Tucson, Arizona) was barred from association with any NASD member in any capacity. The sanction was based on findings that Jacobson exercised discretion in the account of a public customer without written authorization. NASD also found that Jacobson falsely represented to his member firm that he had failed to effect a sell order placed by the public customer in order to induce the firm to restore value to the customer's account. **(NASD Case #C3A030024)**

Clifford R. James (CRD #4620719, Associated Person, Saint Ann, Missouri) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, James consented to the described sanction and to the entry of findings that he failed to disclose material information on his Form U4. The findings also stated that James failed to respond to NASD requests for information. **(NASD Case #C04030065)**

Edward Terry Jaramillo (CRD #2573010, Registered Representative, Coral Gables, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jaramillo consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for documents. **(NASD Case #CMS030283)**

Kevin Richard Johnson (CRD #1369794, Registered Supervisor, Princeton, New Jersey) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Johnson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Johnson consented to the described sanctions and to the entry of findings that he recommended a stock to public customers and inexperienced registered representatives without conducting due diligence regarding the stock. The findings also stated that Johnson failed to disclose

material information and omitted material facts concerning the stock to public customers and acted recklessly when he recommended the stock to customers without a reasonable basis. NASD also found that Johnson failed to submit the required form for approval of his solicitations of the stock not covered by his firm's research analysts or excepted from the approval requirement. In addition, NASD found that Johnson marked numerous solicited trades as "unsolicited" in his firm's automated order-entry system, causing the firm's records to be inaccurate and to violate Section 17(a) of the Securities Exchange Act and SEC Rule 17a-3.

Johnson's suspension began April 19, 2004, and will conclude at the close of business April 18, 2005. (NASD Case #CAF030064)

Dennis Keith Jones (CRD #2026153, Registered Representative, Harrison, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he induced his relatives to invest approximately \$211,222.95 in a scheme that he created or perpetuated. The findings also stated that Jones made these claims knowing them to be false, and converted the funds for his personal benefit, and not for the benefit of his relatives. (NASD Case #C8A040016)

Melissa Dawn London (CRD #4475688, Registered Representative, Parkersburg, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, London consented to the described sanction and to the entry of findings that, while working as a personal banker, she converted funds totaling \$1,247.14 by withdrawing the funds from the bank's accounts and depositing the money into her personal bank accounts without the permission or authority of the bank. The findings also stated that London converted \$1,500 from the bank account of a public customer by transferring the money from the customer's bank account into her personal bank accounts without the permission or authority of the customer. (NASD Case #C8A040013)

James Harold McKamy (CRD #2279234, Registered Principal, Richardson, Texas) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before McKamy reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, McKamy consented to the described sanctions and to the entry of findings that, at the direction of another individual, he prepared, signed, and backdated his member firm's management agreement for the purpose of

furthering an attempt to mislead NASD concerning its investigation of an individual's principal related activities.

McKamy's suspension began May 17, 2004, and will conclude at the close of business November 16, 2004. (NASD Case #C06030035)

Peter Courtney Mell, Sr. (CRD #2213795, Registered Principal, Chester, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Peter consented to the described sanction and to the entry of findings that he fabricated and provided multiple falsified account statements to his member firm and stated that these account statements reflected the existence of securities purportedly owned by the firm. NASD also found that these account statements were false and fictitious, as no such accounts ever existed. NASD further found that Mell fabricated and provided to his member firm a letter falsely reflecting that the accounts, which never existed, had been closed. In addition, NASD determined that Mell also forged, or caused to be forged, the signature of a representative of another member firm on the letter. (NASD Case #C9B040023)

Richard Joseph Monello (CRD #1644006, Registered Principal, Irving, Texas) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any principal or supervisory capacity for three months. In light of the financial status of Monello, no monetary sanctions have been imposed. Without admitting or denying the allegations, Monello consented to the described sanction and to the entry of findings that a member firm, acting through Monello, engaged in a securities business while failing to maintain sufficient net capital. The findings also stated that Monello failed to establish and maintain a supervisory system to supervise the trading activities of a registered representative. In addition, NASD found that Monello failed to establish, maintain, and enforce reasonable written supervisory procedures designed to ensure the firm's compliance with all aspects of NASD trade reporting rules.

Monello's suspension began May 3, 2004, and will conclude at the close of business August 2, 2004. (NASD Case #C06030035)

Steve Charles Morgan (CRD #3026067, Registered Representative, Berthoud, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was ordered to pay \$15,739 in partial restitution to public customers and suspended from association with any NASD member in any capacity for six months. The restitution must be paid before Morgan reassociates with any NASD member following the suspension. Without admitting or denying the allegations, Morgan consented to the described sanctions and to the entry

of findings that he presented to and discussed with public customers a home equity management program involving the use of a portion of the equity in their home to purchase a variable annuity and allocate the investment 35 percent to fixed income-based sub-accounts, and 65 percent in equity-based sub-accounts. NASD also found that Morgan did not have reasonable grounds for believing that the customers had the financial ability to purchase the recommended variable annuity, without using the proceeds from the mortgaging of their home to do so, and that he had no reasonable grounds for believing that they would be able to meet their mortgage commitment should the variable annuity not perform at the levels needed to avoid depletion of principal.

Morgan's suspension began April 5, 2004, and will conclude at the close of business October 4, 2004. **(NASD Case #C3A040016)**

Dawn Ann Muzoleski (CRD #4208814, Registered Representative, Bear, Delaware) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Muzoleski consented to the described sanction and to the entry of findings that she received a \$1,520 check from a public customer to deposit into the customer's brokerage account and, without the customer's knowledge or authorization, deposited the check into an account that she owned, retaining the customer's funds before depositing the funds by means of a separate instrument into the customer's brokerage account at the firm. NASD also found that Muzoleski failed to respond to NASD requests for documents and information. **(NASD Case #C9A040007)**

John Lewis Myers (CRD #1034020, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$109,990.64, plus interest in restitution to public customers. Without admitting or denying the allegations, Myers consented to the described sanctions and to the entry of findings that he received \$109,990.64 from public customers intended to be used for investment purposes, but failed to apply the funds as directed and, instead, misused the customers' funds without their knowledge and consent. **(NASD Case #C02040015)**

Dennis Stuart O'Brien (CRD #3245317, Registered Representative, Willow Grove, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, O'Brien consented to the described sanction and to the entry of findings that he transmitted by facsimile to a firm copies of documents that purported to be bank money orders totaling \$1,660 payable to the firm for applications for insurance for public customers.

NASD found that O'Brien falsely represented to the firm that the money orders had previously been submitted to the firm with the insurance applications when, in fact, the customers had not paid such sums, nor had such sums been submitted to the firm. The findings also stated that the money orders were copies of actual bank money orders issued to O'Brien, which he had made payable to his landlord and not to the firm, with the insurance applications on the lives of the customers. In addition, NASD found that the firm, acting in reliance upon the purported premium payments represented by the falsified money orders, placed in force policies on the lives of the customers and paid O'Brien commissions of \$1,328.04. **(NASD Case #C9A040006)**

Collin Jesus Olympius (CRD #2766903, Registered Representative, Pasadena, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Olympius reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Olympius consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

Olympius' suspension began April 19, 2004, and will conclude at the close of business May 18, 2004. **(NASD Case #C02040014)**

Sean Donald Pascoe (CRD #2331266, Registered Representative, Boca Raton, Florida) was barred from association with any NASD member in any capacity and ordered to pay \$11,133, plus interest, in restitution to a public customer. The sanctions were based on findings that Pascoe executed transactions in the account of a public customer without the knowledge or consent of the customer. The findings also stated that Pascoe failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C07030060)**

Paul Joseph Pollack (CRD #1157243, Registered Representative, San Francisco, California) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Pollack reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Pollack consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U4.

Pollack's suspension began May 3, 2004, and will conclude at the close of business May 14, 2004. **(NASD Case #C01030034)**

Paul Samuel Porter, II (CRD #2045684, Registered Representative, River Ridge, Louisiana) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one month. Without admitting or denying the allegations, Porter consented to the described sanctions and to the entry of findings that he recommended and effected the purchase of Class B mutual funds by a public customer in the aggregate amount of \$80,000 without having reasonable grounds for believing the recommendations and resultant transactions were suitable for the customer on the basis of the customer's financial situation and needs.

Porter's suspension began April 19, 2004, and will conclude at the close of business May 18, 2004. **(NASD Case #C05040016)**

Max M. Quasem (CRD #4648641, Associated Person, Rancho Cucamonga, California) submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Quasem reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Quasem consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U4.

Quasem's suspension began April 5, 2004, and concluded at the close of business May 4, 2004. **(NASD Case #C02040004)**

Darryl Kent Reeder (CRD #2442970, Registered Representative, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Reeder reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Reeder consented to the described sanctions and to the entry of findings that he created business entities, including a hedge fund, and, prior to selling any interests in the fund, presented his member firm with information about the fund but failed to obtain written approval to participate in any transactions involving the hedge fund. The findings also stated that Reeder was prohibited by his firm from participating in transactions in the fund but continued his participation by selling interests in the fund to additional investors.

Reeder's suspension began April 19, 2004, and will conclude at the close of business October 11, 2005. **(NASD Case #C07040030)**

Louis Enrigve Rivadeneira (CRD #2826609, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Rivadeneira converted \$56,000 belonging to public customers to his own use. NASD found that Rivadeneira forged the signature of a customer on an Individual Retirement Account Distribution Request Form and a Flexible Payment Annuity Surrender Form. The findings also stated that Rivadeneira failed to respond to NASD requests for information and to appear for an NASD on-the-record interview. **(NASD Case #C10030107)**

Jeffrey Dirk Roberts (CRD #1139510, Registered Principal, Boise, Idaho) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Roberts consented to the described sanction and to the entry of findings that he received checks totaling \$152,473 from a public customer to be used for investment purposes and deposited the checks in an account he controlled, thereby converting the funds to his own use and benefit. **(NASD Case #C3B040007)**

William Domizio Sargent (CRD #4555931, Associated Person, Shirley, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500 and suspended from association with any NASD member in any capacity for 45 days. The fine must be paid before Sargent reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sargent consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4.

Sargent's suspension began April 19, 2004, and will conclude at the close of business June 2, 2004. **(NASD Case #CLI040005)**

Frederick Gus Schiffman (CRD #1398182, Registered Representative, Jackson, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$3,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Schiffman consented to the described sanctions and to the entry of findings that he recommended that public customers sell certain investments and purchase growth technology mutual funds in their accounts. The findings also stated that Schiffman made these recommendations without having reasonable grounds for believing that his recommendations and the resultant transactions were suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Schiffman's suspension began April 19, 2004, and concluded at the close of business April 30, 2004. **(NASD Case #C9B040021)**

Elliot Seth Simon (CRD #845441, Registered Representative, Weston, Florida) submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Simon consented to the described sanction and to the entry of findings that he engaged in private securities transactions and failed to give prior written notice to, or receive approval from, his member firm. **(NASD Case #C07030062)**

Timothy Paul Stohs (CRD #1634086, Registered Representative, Boothwyn, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. The fine must be paid before Stohs reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Stohs consented to the described sanctions and to the entry of findings that he failed to provide his member firm with prompt written notice of his outside business activities.

Stohs' suspension began May 3, 2004, and will conclude at the close of business May 21, 2004. **(NASD Case #C9A040008)**

James William Striegel (CRD #1779775, Registered Representative, Bixby, Oklahoma) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Striegel reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Striegel consented to the described sanctions and to the entry of findings that he sent a public customer communications that failed to provide a sound basis for evaluating the securities held in the customer's account and included potentially misleading statements regarding the value of the securities. The findings also stated that Striegel failed to respond to NASD requests for information.

Striegel's suspension began May 3, 2004, and will conclude at the close of business November 2, 2004. **(NASD Case #C05030061)**

Patrick Avent Turlington (CRD #2928710, Registered Representative, Winston-Salem, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Turlington consented to the described sanction and to the entry of findings that he received \$22,000 from a public customer to deposit in the customer's account at Turlington's member firm, failed to deposit the funds, and converted the funds for his own use and benefit. The findings also stated that Turlington failed to respond to NASD requests to appear and provide testimony. **(NASD Case #C07040034)**

Susan Young U (CRD #2559770, Registered Principal, East Meadow, New York) submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, U consented to the described sanction and to the entry of findings that she effected a false change of address for a public customer without the knowledge or authorization of the customer. The findings also stated that U failed to respond to an NASD request for information. **(NASD Case #C10030124)**

Thomas Hans Underdahl, Jr. (CRD #1614866, Registered Representative, Yarmouth, Maine) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$4,000, \$1,500 of which represents disgorgement of his commissions, and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Underdahl reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Underdahl consented to the described sanctions and to the entry of findings that he sold income-oriented investments and purchased Class B mutual funds for the account of a public customer without having reasonable grounds for believing that his recommendations and resultant transactions were suitable for the customer on the basis of her financial situation, investment objectives, and needs.

Underdahl's suspension began April 19, 2004, and concluded at the close of business April 30, 2004. **(NASD Case #C11040011)**

Dmitry Verkhovsky (CRD #2171637, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Verkhovsky consented to the described sanction and to the entry of findings that he arranged for an impostor to take the Series 6 and Series 63 qualification exams on his behalf. **(NASD Case C10040018)**

Karla Zorina Wilkie (CRD #1690469, Registered Representative, Brentwood, New York) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$7,500 and suspended from association with any NASD member in any capacity for 25 days. Without admitting or denying the allegations, Wilkie consented to the described sanctions and to the entry of findings that she failed to disclose timely material facts on her Form U4.

Wilkie's suspension began May 3, 2004, and will conclude at the close of business May 27, 2004. **(NASD Case #C10040020)**

Jimmy Ji Zhou (CRD #4104172, Registered Representative, El Monte, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for nine months. Without admitting or denying the allegations, Zhou consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Zhou's suspension began April 19, 2004, and will conclude at the close of business January 18, 2005. **(NASD Case #C02040013)**

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

John Edward Brigandi (CRD #1388900, Registered Representative, Greenvale, New York) was named as a respondent in an NASD complaint alleging that he directed and pursued a short-term trading strategy in the account of a public person and used a large amount of margin to finance the trading activity. The complaint also alleges that Brigandi executed the transactions in the customer's account without reasonable grounds for believing that the level of activity represented by such transactions was suitable for the customer on the basis of his financial situation, investment objectives, and needs. **(NASD Case #C10040025)**

Robin Carter Calvert (CRD #1185609, Registered Representative, Spartanburg, South Carolina) was named as a respondent in an NASD complaint alleging that she recommended the purchase of corporate bonds to public customers without reasonable basis for her representations, and failed to disclose to public customers that the bonds were rated significantly below investment grade and were speculative and risky investments. The complaint also alleges that Calvert made recommendations to public customers to purchase bonds and to sell mutual fund holdings in their IRA accounts to fund bond purchases without reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers on the basis of their financial situation and needs. In addition, the complaint alleges that Calvert failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C07040029)**

Dana Alexander Korosi (CRD #816161, Registered Representative, Moreland Hills, Ohio) was named as a respondent in an NASD complaint alleging that he converted \$188,398 from a securities account of a trust maintained at his member firm by writing checks made payable to himself, endorsing the checks, and using the proceeds from the checks for his own benefit or for the benefit of someone other than the trust beneficiaries, without the knowledge or consent of the beneficiaries of the trust. The complaint also alleges that Korosi failed to respond to NASD requests for documents and information. **(NASD Case #C8A040017)**

Cory Andrew Mongno (CRD #2648751, Registered Representative, Bridgewater, New Jersey) was named as a respondent in an NASD complaint alleging that he engaged in a pattern of unsuitable mutual fund switches in the accounts of a public customer that involved open-end Class A and Class B shares and closed-end mutual funds. The complaint also alleges that Mongno recommended the transactions without having reasonable grounds for believing that such transactions were suitable for the customer in view of the frequency of the transactions, the type of investments being recommended, and the customer's financial situation and needs. In addition, the complaint alleges that, while Mongno's switching had negative financial consequences for the customer, it generated gross commissions of approximately \$52,000 for Mongno and his member firm. **(NASD Case #C9B040020)**

Oscar Armando Montenegro (CRD #4222514, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he received \$39,975 from public customers for investment, deposited the funds into his personal banking account, and forwarded only \$20,000 of one customer's funds for investment, thereby converting \$19,975 for his own use and benefit. The complaint also alleges that Montenegro created a Web site for his own direct access trading firm and specified that customer trades would be effected through a member firm, without the permission of any registered principal of the firm to use the Web site. The complaint further alleges that Montenegro provided false testimony during an NASD on-the-record interview. **(NASD Case #C10040019)**

John R. Murdock, III a/k/a Rusty Murdock (CRD #4464537, Associated Person, Texarkana, Texas) was named as a respondent in an NASD complaint alleging that Murdock received \$3,737.50 in insurance premium payments from public customers for application to the customers' insurance policies and converted the funds to his personal use and benefit without the customers' knowledge, authorization, or consent. The complaint also alleges that Murdock failed to respond to NASD requests for information and documentation. **(NASD Case #C06040009)**

Firms Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Financial Links, Inc.
Needham Heights,
Massachusetts
(March 26, 2004)

Harmonic Research, Inc.
New York, New York
(March 26, 2004)

Individual Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Kanatani, Kirk W.
Prairieville, Louisiana
(March 26, 2004)

Firms Suspended for Failure to Supply Financial Information

The following firms were suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The action was based on the provisions of NASD Rule 8221.

(The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.)

Diesel Energy
International, L.L.C.
Dallas, Texas
(March 11, 2004)

Financial Links, Inc.
Needham Heights,
Massachusetts
(March 11, 2004)

Equity Financial
Management Services, Inc.
Chicago, Illinois
(March 11, 2004)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210

(The date the bar became effective is listed after the entry.)

Ceparano, Louis C.
Melville, New York
(April 5, 2004)

Quattrochi, Joseph C.
Staten Island, New York
(March 30, 2004)

Charlton, Michael E.
Nashville, Tennessee
(March 5, 2004)

Riccardi, Jr., Elio
Staten Island, New York
(March 29, 2004)

Chenhall, Terry
St. Petersburg Beach, Florida
(March 22, 2004)

Signorelli, Jr., Joseph
Parkland, Florida
(March 5, 2004)

Everin, Peggy Louis
Wyoming, Michigan
(March 29, 2004)

Stabile, Bach
Sherman Oaks, California
(March 26, 2004)

Lyster, Charles E.
San Clemente, California
(March 22, 2004)

Wegesser, Hans
Menomonee Falls, Wisconsin
(March 26, 2004)

Millard, John L.
Jupiter, Florida
(March 22, 2004)

Willis, John Carl
Englewood, Florida
(March 12, 2004)

Mongie, Francis B.
Provo, Utah
(March 19, 2004)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested under NASD Rule 8210

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Clancy, William James
Rahway, New Jersey
(March 30, 2004)

Gray, Barry K.
West Columbia, South
Carolina
(April 5, 2004)

Dhillon, Hardip S.
Fremont, California
(March 30, 2004)

Hsieh, Tu-Chih
Ridgefield, New Jersey
(March 31, 2004)

Flor, Gary J.
Huntington, New York
(March 31, 2004)

Jacks, Gary M.
Maineville, Ohio
(March 29, 2004)

Floyd, Brian C.
Orlando, Florida
(April 5, 2004)

Leonardi, Carl D.
Rochester, New York
(March 10, 2004)

Individuals Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

Becker, James David
Marshfield, Massachusetts
(March 18, 2004)

Harris, II, Ronald A.
West Orange, New Jersey
(March 26, 2004)

NASD Charges Dallas, San Diego Brokerage Firms with Fraudulent Promotion of Pink Sheet Securities

Six Individuals Associated with RichMark Capital; Back Bay Capital Also Charged

NASD filed complaints against Dallas-based RichMark Capital Corporation and San Diego-based Back Bay Capital, Inc. for using fraudulent tactics to sell highly speculative OTC (or Pink Sheet) securities to customers. Three persons associated with RichMark and three persons associated with Back Bay were also charged.

RichMark, its owner Doyle Mark White, and its former president Michael Ray Claiborne have been charged with fraudulently manipulating the price of the common stock of Paradise Tan, Inc, which operates tanning salons in Texas and Arizona. Paradise Tan's stock was first quoted on the Pink Sheets in July 2002. White is charged with engaging in unlawful "wash" sales of Paradise Tan shares to create the appearance of a genuine, independent market for the stock. Claiborne is charged with executing White's wash sales—even though he knew they were not bona fide market transactions, but simply trades between accounts controlled by White.

James G. Morgan, Jr., a former RichMark broker, is charged with fraud in connection with his solicitation of customers to purchase Paradise Tan promissory notes. One victim was a 91-year-old widow living in a retirement home on a limited, fixed income, whom Morgan persuaded to purchase a \$25,000 promissory note that could be converted into Paradise Tan shares.

White and Claiborne are also charged with allowing an unregistered person at RichMark to trade in Paradise Tan stock as part of this fraudulent scheme.

In a second case, NASD filed fraud charges against Back Bay, its owner and president Albert Carazolez, and registered representative Vladimir Feldman in connection with their promotion and sale of shares of InterContinental Services Corp., a now-defunct OTC company. InterContinental, which had little revenue and significant debt, purportedly was going to engage in the design and manufacture of "interactive toys."

NASD also charged Robert Meyer—who owned a minority interest in Back Bay, was the former CEO of InterContinental, and was InterContinental's major stockholder—with failing to register as a principal in Back Bay. Meyer had been registered with NASD, from 1988 until 1994, when Montana state securities regulators obtained a default judgment against him for violating Montana anti-fraud regulations and employing unregistered agents to sell unregistered securities.

Feldman—who operated from a satellite office of Back Bay located in Brooklyn, NY—is charged with fraudulently inducing customers, some of them elderly and with limited incomes, to purchase approximately 400,000 shares of InterContinental in September and October 2002 for more than \$200,000. The NASD complaint alleges that most of the stock sold by Feldman came from a personal account of Meyer's. As part of the scheme, Carazolez purchased almost 100,000 shares of InterContinental stock prior to Feldman's fraudulent solicitation efforts, and then dumped most of those shares at a profit after Feldman developed artificial interest in the market for InterContinental shares.

Under NASD rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, suspension, bar, or expulsion from NASD.

NASD Files Enforcement Action against Sigma Financial for Harassing Clients, Violating Arbitration Code

NASD has brought an enforcement action charging Sigma Financial Corporation of Ann Arbor, MI, and its president with unethical conduct and violations of NASD's Code of Arbitration Procedure for frivolously pursuing legal action against an elderly couple who had won an arbitration award against the firm. This action is the most recent effort by NASD to curb abuses in the arbitration process and ensure compliance by regulated firms.

"This case is an example of a brokerage firm using the courts to harass and intimidate customers because the firm did not like an arbitration award," said Mary L. Schapiro, NASD Vice Chairman and President of Regulatory Policy and Oversight. "The firm's frivolous claims have caused these customers to incur significant legal fees and court costs over the three years that they have been forced to protect their rights in state court."

"This kind of behavior is in clear violation of NASD Rules and the firm's own agreement with its customers, and it will not be tolerated," Schapiro said. "Any firm found abusing the arbitration process, including misusing lawsuits in the civil courts, will face disciplinary action."

According to NASD's complaint, Sigma Financial and its president, Jerome S. Rydell, were the subjects of an arbitration claim filed on July 21, 1999, by a couple who had lost money in investments they had made through the firm. Following seven days of hearings, on April 3, 2001, an NASD arbitration panel entered an award in the customers' favor in the amount of \$318,096, which included attorneys' fees and costs. Shortly after the award was rendered, however, on April 23, 2001, Sigma filed two lawsuits in Michigan Circuit Court against the customers.

The first lawsuit was an attempt to vacate the arbitration award. In the second lawsuit, Sigma claimed, for the first time, that it was entitled to damages as a third-party beneficiary to agreements the customers signed with the issuer of the investments, which they purchased through the firm. Sigma did not seek to arbitrate this claim despite its agreement to arbitrate any controversy and waive its right to seek remedies in court.

On September 26, 2001, the Michigan Circuit Court confirmed the NASD arbitration award in favor of the customers, dismissed the second lawsuit and sanctioned the firm \$500 for filing a frivolous claim. Despite these rulings, Sigma continued to litigate against the customers in state court, filing numerous motions and pleadings from November 2001 through April 2002. In May 2002, after finding Sigma's latest series of motions to be in bad faith, the Michigan Circuit Court again sanctioned Sigma. This time, the court ordered the firm and its counsel to pay the customers \$1,000 and took the unusual step of requiring Sigma to obtain the Circuit Court's permission prior to filing any other motions.

Sigma appealed the Michigan Circuit Court's rulings to the Michigan Court of Appeals, in filings made on January 22, 2002, and February 19, 2002. On February 19, 2004, the Michigan Court of Appeals upheld the Circuit Court's confirmation of the NASD arbitration award, dismissal of the second lawsuit, and imposition of sanctions. Three years after the NASD Arbitration award was issued, Sigma continues to pursue its claims against its former customers in Michigan courts: on April 1, 2004, Sigma filed an appeal with the Michigan Supreme Court.

Under NASD rules, the individuals and the firms named in the complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, suspension, bar, or expulsion from NASD.

NASD Fines Long Island Brokerage Firm David Lerner Assoc., \$100,000 for Prohibited Mutual Fund and Variable Product Sales Contests

Two Executives also Censured and Fined for Supervisory Violations

NASD has censured and fined Long Island-based brokerage firm David Lerner Assoc., \$100,000 for running sales contests to promote certain David Lerner proprietary mutual funds and selected variable annuity and variable life insurance products, all in violation of NASD rules.

Between Sept. 25, 2000, and March 21, 2003, the firm conducted six sales contests and offered or awarded various prizes to the winning broker-dealer representatives, including three- and four-day trips to resorts in Puerto Rico, the Bahamas, Las Vegas, and New England. Other prizes included valuable home electronics, such as large-screen television sets, digital cameras, and DVD players. The estimated value of the contest awards totaled \$700,000.

Two of the contests violated NASD rules because the sales contests offered credit only for sales of David Lerner's own proprietary mutual funds. Four other contests violated NASD rules because the firm's proprietary mutual funds or selected variable products received favorable treatment for contest purposes.

"The sales contests engaged in by the firm increase the potential for investors to be steered into investments that are in the representatives' financial interests instead of the best interests of the customers," said Mary L. Schapiro, NASD's Vice Chairman and President of Regulatory Policy and Oversight. "Our rules are designed to prevent the conflicts of interest that arise when brokers are encouraged to recommend investments based on lucrative awards paid by their employers, rather than on the merits of the investments and the needs of their customers."

NASD also charged David Lerner Assoc., and its Vice President of Compliance, Daniel E. Chafetz, with supervisory violations for failing to have any supervisory systems or procedures in place to detect and prevent the sales contest violations in question. Additionally, NASD charged the firm and its Vice President of Sales, John Dempsey, Sr., with failing to supervise the firm's sales force to prevent the sales contest violations. NASD censured Chafetz and Dempsey and fined each \$10,000 for their supervisory violations.

In settling these charges, David Lerner Assoc., Chafetz, and Dempsey neither admitted nor denied the charges.